

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

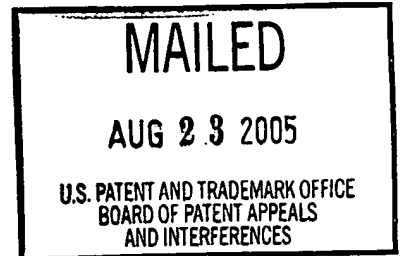
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL J. POLCYN

Application No. 09/574,317

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was electronically received at the Board of Patent Appeals and Interferences on June 16, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the Examiner's Answer, mailed December 18, 2003, reveals an inconsistency between the headings entitled, "Prior Art of Record" and "Grounds of Rejection." Under the heading

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"Grounds of Rejection," the examiner identifies a single rejection of claims 1-5, 8-12, 15, 17-19 under 35 U.S.C. 102(b) as being anticipated by Arbel et al (US Patent No. 5,276,731). The heading "Prior Art of Record" should only identify the reference(s) of record relied upon to reject the claims.

Appellant filed a Terminal Disclaimer dated August 29, 2003. It is not clear from the record that the Terminal Disclaimer has been considered by the examiner. A written communication notifying appellant of the examiner's consideration of the Terminal Disclaimer is required.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

1. vacate the Examiner's Answer dated December 18, 2003,
2. issue a new Examiner's Answer clearly setting forth all pertinent rejections and the "prior art of record" relied on to reject the claims;
3. consideration and notification to appellant of the entry or non-entry of the Terminal Disclaimer dated August 29, 2003, and
4. for any further action as deemed appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e. abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES



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